

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 715 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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BHARATSINH CHIMANLAL PARMAR

Versus

DISTRICT PRIMARY EDUCATION OFFICER

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Appearance:

MR MUKESH R SHAH for Petitioner  
MR DD VYAS for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 19/08/1999

ORAL JUDGEMENT

#. Heard the learned counsel for the parties.

#. The petitioner, a head-master of the Chapaltara Primary School, by this writ petition under Article 226 of the Constitution, challenges the order of the respondent No.1 dated 30.11.93, annexure-E, and 20.1.95, annexure-H respectively, under which it was ordered that Rs.30,000/may be recovered from the petitioner in fifteen

equal monthly installments starting from January 1995.

#. The facts of the case, in brief, are that on the complaint made against him to the respondent, an inquiry was made by giving show cause notice to the petitioner which has been served upon him on 8.1.93, wherein the allegation was that the petitioner though is full time teacher, he was working as a Secretary of some cooperative society. Whatever the salaries which he earned as working as Secretary of the Society was ordered to be recovered and that amount is of Rs.30,000/=. It is the defence of the petitioner that this amount has been deposited by petitioner with the society.

#. The learned counsel for the petitioner reiterated same contentions before this court that when the petitioner has returned that amount to the society where he was working, the respondents could not have passed the order of recovery of this amount from him, otherwise it would amount to payment of double amount by petitioner.

#. I do not find any substance in this contention. Leaving apart the fact whether the petitioner has in fact returned this amount to the society or not or it is only a manufactured plea, even if it is taken that this amount has been paid back to the society, he is not relieved of his liability to pay this amount to the respondents. The petitioner was not entitled to work elsewhere but he kept himself in gainful employment and though for this misconduct, he could have been dismissed from services, a lenient view has been taken and he was directed to deposit this amount with the respondents. This order is perfectly legal and justified to which no exception can be made. The respondents have acted very reasonably and fairly where this amount of Rs.30,000/= was ordered to be recovered in fifteen monthly installments. The learned counsel for the petition on the last date had prayed for time to take instructions from the petitioner for depositing Rs.30,000/= with the respondent but he stated today that he has not received any instructions.

#. In the result, this Special Civil Application fails and the same is dismissed. Interim relief, which has been granted by this Court earlier, stands vacated. The petitioner is directed to deposit Rs.30,000/= with the respondent either in lumpsum or in monthly installment of Rs.2,000/=. The compliance of this order be reported by petitioner to this Court. Rule discharged accordingly. No order as to costs.

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[sunil]

